DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/25/2009 has been entered.

Response to Arguments

1. Applicant's arguments with respect to the independent claims have been considered but are moot in view of the new ground(s) of rejection. However, the examiner submits that Applicant's "in and out points" are not well known in the art and, from what can be deduced from the specification, these "in and out points" are simply markers indicating the beginning and ending of content.

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-6 and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) and further in view of Taniguchi (US 2003/0093810).

As to claim **1**, Franken et al. teaches a method of displaying (Figure 1, TV "102") and rating content (Col. 3, Lines 47-50, "…these programs are ranked...") comprising: receiving at least one string of content having a plurality of segments (Col. 2, Lines 43-46), the content receiving step comprising streaming the content in real-time for viewing while being captured (Col. 2, Lines 43-46, "…provides live digital television service…"); creating profile information associated with each segment of the content (Col. 3, Lines 5-7); showing the at least one string of content on a display device (Col. 3, Lines 39-42); and updating the profile information associated with each segment of the content to reflect viewer information (Col. 3, Lines 44-47; *{The ranking is part of the profile information.}*). The claim differs from Franken et al. in that it further requires separating each at least one string of content into a plurality of in-and-out points corresponding to each segment. The claim also differs from Franken et al. in that it further requires that a vote, reflecting the quality of each segment of the content, is received on the

content, thereby providing a rating value having a quantifiable significance to the in-and-out points and that the profile information is updated according to the vote.

In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this would provide a higher quality assessment of viewership. More specifically, the system would be able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or rating value*) is generated, which is sent, together with the partial video data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). In light of the teaching of Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

As to claim **2**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 further comprising storing the profile information associated with the at least one string of content within a storage device (see Franken et al., Col. 3, Lines 51-55; *{It is inherent that the personal computer or other processor stores the program names and the ranking.}*).

As to claim **3**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 further comprising capturing the at least one string of content with a content capturing device (*The television shows are captured by a video camera or the like.*).

As to claims **4-6**, Although Franken et al. does not state it explicitly, **Official Notice** is taken that capturing content, particularly television programs, using a digital video camera that also records the audio associated with the video is a well known concept in the art. One of ordinary skill in the art would recognize the numerous advantages of capturing content with digital video cameras.

As to claim **8**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein receiving the at least one string of content occurs in real time relative to capturing the content (see Franken et al., Col. 2, Lines 42-48, "…**live** video programming…").

As to claim **9**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is video footage (see Franken et al., Col. 2, Lines 42-48, "…**live** video programming…").

As to claim **10**, Franken, as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is a digital image (*See Official Notice statement for claims 4-6*).

As to claim **11**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein the at least one string of content is audio data (*See Official Notice statement for claims 4-6*).

As to claim **12**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1 wherein a rating value is determined for each segment of the plurality of segments of the least one string of content based on the vote (see Franken et al., Col. 3, Lines 47-50).

As to claim **13**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 12 further comprising comparing the rating value with a predetermined value rating threshold (see Franken et al., Col. 4, Lines 21-30).

As to claim **14**, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 13 further comprising selectively displaying a segment of the plurality of segments of the at least one string of content based on comparing the rating value (see Franken et al., Col. 4, Lines 21-30).

As to claim **15**, Franken et al. teaches a system for displaying (Figure 1, TV "102") and rating content (Col. 3, Lines 47-50, "…these programs are ranked…") comprising: means for receiving at least one string of content having a plurality of segments (Col. 2, Lines 43-46), the at least one string of content streaming in real-time for viewing while being captured (Col. 2, Lines 43-46, "…provides live digital television service…"); means for creating profile information

associated with each segment of the content (Col. 3, Lines 5-7); means for showing the at least one string of content on a display device (Col. 3, Lines 39-42); and means for updating the profile information associated with each segment of the content to reflect the viewer information (Col. 3, Lines 44-47). The claim differs from Franken et al. in that it further requires a separating means for separating the at least one string of content into a plurality of segments corresponding the in-and-out points. The claim also differs from Franken et al. in that it further requires means for receiving a vote that reflects the quality of the content, thereby providing a rating value having a quantifiable significance to the in-and-out points and that the profile information is updated according to the vote.

In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this would provide a higher quality assessment of viewership. More specifically, the system would be able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or*

rating value) is generated, which is sent, together with the partial video data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). In light of the teaching of Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

2. Claims 7,16,17 and 20-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) in view of Taniguchi (US 2003/0093810) and further in view of Peliotis et al. (US 2002/0065678).

As to claim 7, Franken et al., as modified by Zilliacus and Taniguchi, teaches the method according to claim 1. The claim differs from Franken et al., as modified by Zilliacus and Taniguchi, in that it further requires the step of identifying the content from multiple pieces of content.

In the same field of endeavor, Peliotis teaches method of selecting and excluding video segments in a video stream to be viewed by a viewer comprising: placing markers in the video stream that indicate the position of a division between the video segments of the video stream; placing tags in the video stream that indicate content of each video stream; using video preference information of the viewer to select and exclude video segments by comparing the tags with the video preference information of the viewer; inserting alternate video segments that replace video segments that have been excluded by the viewer ([0008]). The markers are

therefore used to identify a separate piece of video segment or content within the video stream or multiple pieces of content, and the tags are used to describe the individual contents.
In light of the teaching of Peliotis et al., it would have been obvious to one of ordinary skill in the art to include the content identification step in the system of Franken et al., as modified by Zilliacus and Taniguchi, because an artisan of ordinary skill in the art would recognize that this would allow the viewer the ability to select video segments based on content ([0006]) so that they would not have to view content that is not desired to be viewed, but rather focus on content that the viewer desires ([0005]).

As to claim **16**, Franken et al. teaches a method of displaying (Figure 1, TV "102") and rating at least one string of content (Col. 3, Lines 47-50, "…these programs are ranked…"), comprising the steps of: receiving the at least one string of content (Col. 2, Lines 43-46), the at least one stream of content streaming in real-time for viewing while being captured (Col. 2, Lines 43-46, "…provides live digital television service…"); creating profile information associated with each segment of the at least one string of content (Col. 3, Lines 5-7); showing the at least one string of content to a plurality of viewers (Col. 3, Lines 42-44); receiving viewer information on each segment of the at least one string of content from each of the plurality of viewers (Col. 3, Lines 43-47, "…viewership information…"); determining a rating value for the content based on viewer information (Col. 3, Lines 47-50, "…ranking…"); and displaying the content to the plurality of viewers based on the rating value of the content (Col. 4, Lines 21-26; *{See arguments above.}*). The claim differs from Franken et al. in that it further requires the steps of identifying the at least one string of content (1), receiving a vote reflecting the quality of the content from a plurality of viewers, thereby providing a rating value having a quantifiable

significance to the in-and-out points (2), and separating each at least one string of content into a plurality of in-and-out points corresponding to each segment (3).

(1) In the same field of endeavor, Peliotis teaches method of selecting and excluding video segments in a video stream to be viewed by a viewer comprising: placing markers in the video stream that indicate the position of a division between the video segments of the video stream; placing tags in the video stream that indicate content of each video stream; using video preference information of the viewer to select and exclude video segments by comparing the tags with the video preference information of the viewer; inserting alternate video segments that replace video segments that have been excluded by the viewer ([0008]). The markers are therefore used to identify a separate piece of video segment or content within the video stream or multiple pieces of content, and the tags are used to describe the individual contents.
In light of the teaching of Peliotis et al., it would have been obvious to one of ordinary skill in the art to include the content identification step in the system of Franken et al., as modified by Zilliacus, because an artisan of ordinary skill in the art would recognize that this would allow the viewer the ability to select video segments based on content ([0006]) so that they would not have to view content that is not desired to be viewed, but rather focus on content that the viewer desires ([0005]).

(2) In the same field of endeavor, Zilliacus teaches a video system wherein a plurality of users watching a television program can vote as to the quality of the programs. Voting results are then tabulated by the system (Figure 2; [0033] – [0036]). In light of the teaching of Zilliacus, it would have been obvious to one of ordinary skill in the art to employ the voting system in the system of Franken et al., because an artisan of ordinary skill in the art would recognize that this

would provide a higher quality assessment of viewership. More specifically, the system would be able to avoid false positive, instances where a viewer falls asleep or leaves the television on while away when a program that does not represent their interest is airing.

(3) Further in the same field of endeavor, Taniguchi teaches a video data transmitting method of sending in real-time video data being externally inputted, when encoding video data being inputted as stream data, start and stop of an encoding process is repeated at a predetermined time interval to carry out a data dividing process whereby a plurality of time-continuous video data are generated as partial video data. Also, metadata of partial video data (*equivalent to vote or rating value*) is generated, which is sent, together with the partial video data, in real-time as partial video metadata (see Abstract, Figure 2, leading end and terminal end as in-and-out points). In light of the teaching of Taniguchi, it would have been obvious to one of ordinary skill in the art to separate the content of Franken et al. into partial video data as described in Taniguchi, because an artisan of ordinary skill in the art would recognize that this would facilitate a long-time storage of the video data and a search process through large-capacity video data (see Taniguchi, [0008]).

As to claim **17**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to claim 16 further comprising updating the profile information associated with each segment of the at least one string of content to reflect the rating value (see Franken et al., Col. 3, Lines 44-47; *{The ranking is part of the profile information.}*).

As to claim **20**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the method according to claim 16 further comprising storing the profile information (see Franken et

al., Col. 3, Lines 51-55; *{It is inherent that the personal computer or other processor stores the program names and the ranking.}*).

As to claim **21**, the limitations of claim 21 can be found in claim 16 in method form. Therefore, the cited passages and analysis of Franken et al., Zilliacus, Taniguchi and Peliotis et al. are applicable to rejection of claim 21.

As to claim **22**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 wherein the at least one string of content includes one of a video footage (see Franken et al., Col. 2, Lines 42-46), digital image, and audio data.

As to claim **23**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 further comprising a rendering module for formatting each segment of the at least one string of content to be displayed to the viewer (see Franken et al., Figure 1, video recorder "116"; Col. 5, Lines 36-40, "...compressed...").

As to claim **24**, Franken et al., as modified by Zilliacus and Peliotis et al., teaches the system according to claim 21 further comprising a rendering module for selectively formatting each segment of the at least one string of content for display to the viewer based on the rating value associated with each segment of the at least one string of content (see Franken et al., Col. 5, Lines 36-40, "...compressed...").

As to claim **25**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches a computer-readable medium having computer executable instructions (see Franken et al., Figure 1) for performing a method comprising: identifying at least one string of content, the at least one string of content identifying step comprising streaming the at least one string of content in real-time for viewing while being captured; separating the at least one string of

content into a plurality of segments having a corresponding plurality of in-and-out points; creating profile information associated with each segment of the plurality of segments of the at least one string of content; showing the at least one string of content to a plurality of viewers; receiving a vote on each segment of the plurality of segments of the at least one string of content from each of the plurality of viewers, wherein the vote reflects the quality of each segment of the plurality of segments of the at least one string of content, thereby providing a rating value for establishing a quantifiable significance corresponding to the plurality of in-and-out points; determining a rating value for each segment of the plurality of segments of the at least one string of content based on the vote for establishing a plurality of in and out points; and displaying each segment of the plurality of segments of the at least one string of content to the plurality of viewers based on the rating value of each segment of the plurality of segments of the at least one string of content. *See claim 16 above.*

As to claim **26**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to Claim 1, further comprising the steps of: storing the profile information associated with the at least one string of content within a storage device(see claim 20 above); capturing the at least one string of content with a content capturing device (see claim 3 above); identifying the at least one string of content from the plurality of segments (see claim 16 above); comparing the rating value with a predetermined value rating threshold (see claims 13 and 14 above); and selectively displaying a segment of the plurality of segments of the at least one string of content based on comparing the rating value (see claim 25 above), wherein the content capturing device comprises an element selected from a group consisting of a video camera, a digital camera, and an audio recorder (see claims 4-6 above), wherein receiving the at

least one string of content occurs in real time relative to capturing the at least one string of content (see claim 21 above), wherein the at least one string of content comprises an element selected from a group consisting of video footage (see claim 22 above), a digital image, audio data, and wherein a rating value is determined for each segment of the plurality of segments of the at least one string of content based on the vote (see claim 21 above).

As to claim **28**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the system according to Claim 21, further comprising: a rendering module for formatting each segment of the plurality of segments of the at least one string of content to be displayed to the viewer; and a rendering module for selectively formatting each segment of the plurality of segments of the at least one string of content for display to the viewer based on the rating value associated with each segment of the plurality of segments of the at least one string of content (see claims 23 and 24 above), wherein the at least one string of content comprises an element selected from a group consisting of a video footage (see claim 22 above), digital image, and audio data.

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al. (US # 7,028,323) in view of Zilliacus (US 2004/0005900) in view of Taniguchi (US 2003/0093810) in view of Peliotis et al. (US 2002/0065678) and further in view of Lautzenheiser et al. (US # 7,054,827).

As to claim **18**, Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., teaches the method according to claim 16. The claim differs from Franken et al., as modified by

Zilliacus, Taniguchi and Peliotis et al., in that it further requires the step of checking for a number of viewers submitting the vote.

In the same field of endeavor, Lautzenheiser teaches a method and apparatus for validating a survey database and identifying portions of the survey database that are potentially problematic with the idea of checking the number of responses for selected answers in the survey database to ensure that corresponding user requests are based on a statistically significant sample size, or the user is notified otherwise (Col. 32, Lines 7-11; *{The number of responses for selected answers is the same as the number of viewers submitting the vote.}*). In light of the teaching of Lautzenheiser, it would have been obvious to one of ordinary skill in the art to include survey database validation scheme in the system of Franken et al., as modified by Zilliacus, Taniguchi and Peliotis et al., because an artisan of ordinary skill in the art would recognize that this would prevent the results from being misleading when results may be based on a statistically insignificant sample size, thereby misleading the user (Col. 2, Lines 17-20).

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. DANIELS whose telephone number is (571)272-7362. The examiner can normally be reached on 8:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AD
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/Sinh Tran/
Supervisory Patent Examiner, Art Unit 2622